



Fuel Taxes Newsletter

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All Tax and Fee Programs

Annual Taxpayers' Bill of Rights Hearings to begin

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You can present your proposal orally or in writing.

The annual business and property taxes hearings for 2008 will be in Culver City on February 26 and in Sacramento on March 18, at 1:30 p.m. You are not required to make arrangements to speak, but it would help us to prepare if you contact the Taxpayers' Rights Advocate Office at 888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation. For more details, please call the Advocate's Office or visit us at www.boe.ca.gov/tra/tra.htm, where you can also view the office's 2006-07 annual report, which will be available in January 2008.

New legislation takes effect

The Board sponsored Assembly Bill 1748 (Stats. 2007, ch. 342) in part because we know that sometimes it may not be fair to require a divorced or separated spouse to pay delinquent tax or fee liability that was incurred by the other spouse. This bill, which is effective January 1, 2008, provides relief of liability to a qualifying spouse who has a liability arising from a tax or fee program administered by the Fuel Taxes Division.

Some of the requirements that a spouse must meet to qualify for relief include:

- You owe a tax or a fee liability issued to both you and your spouse.
- You are divorced from, legally separated from, or no longer living with your spouse.
- You owe tax or fee because of your spouse's actions.





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- You were not aware that you owed the tax or fee when it became due and you had no reason to know it was due.
- You did not significantly benefit, directly or indirectly, because the tax or fee was not paid.

In addition, you must be able to file a claim within the legal time limits. You must submit a written request for relief by whichever of these dates occurs last:

- One year from the date we first contacted you about the tax or fee you owe.
- Five years from the due date of the return filed without payment.
- Five years from the date our tax or fee billing becomes final.

If you think you may qualify for relief of liability as an innocent spouse, file a request for relief in writing. Send it to, Offer in Compromise Section, MIC:52 State Board of Equalization P.O. Box 942879, Sacramento, CA 94279-0052.

Mailed returns should be post-marked by the tax due date

To avoid penalty and interest charges for late filing, mailed returns and payments must be postmarked on or before the specified due date. When mailing your return, please be sure to do so before the daily postal pickup to ensure a timely postmark. If the due date falls on a Saturday, Sunday, or state holiday, returns that are postmarked by the next business day will be accepted. A return or payment postmarked after the due date may be considered timely if you provide satisfactory proof that it was mailed on time, with sufficient postage, to the proper address.

Do you qualify for the Offers In Compromise program?

The Offers in Compromise program is for taxpayers or feepayers who do not have, and will not have in the foreseeable future, the income, assets, or means to pay their tax liabilities in full. You qualify if you meet all of the following:

- Have a final tax or fee liability on a closed account.
- Are no longer associated with the business that incurred the liability or with a similar type of business.
- Do not dispute the amount of tax or fee you owe.
- Cannot pay the full amount you owe in a reasonable amount of time.

How do you apply?

You must complete an Offer in Compromise Application (form BOE-490 for individuals or form BOE-490-C for all other entities) and submit it, with the supporting documentation listed on the second page of the application, to the Fuel Taxes Division, MIC:30. For more specific information on the process, you may contact us at 916-322-7931.

Questions and Answers

Publication 56, *Offers In Compromise*, available on our website at www.boe.ca.gov/pdf/pub56.pdf answers several of the most commonly asked questions regarding offers in compromise. Additional questions and answers can be found on our website at www.boe.ca.gov/oiic/oiicfaq.htm.

Fuel Taxes Newsletter Electronic Distribution

If you'd like to receive an electronic version of the Fuel Taxes Newsletter, you may subscribe online. See www.boe.ca.gov/news/ftncont.htm.

Civil behavior in trying times

Some observers have noted that civility is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax law or pressed for time when dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any statement made to a Board employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Security and Audit Division for investigation.

Thanking our Staff – no gifts, please

We'd like to remind you that Board policy prevents our employees from accepting gifts of any type. So if you're grateful to someone for going the extra mile to help you with a complicated issue, please consider saying so on our online Customer Service Survey form, www.boe.ca.gov/info/survey.htm. You can also use the form to register a customer service complaint.

■ Underground Storage Tank Maintenance Fee

Owners must notify us of each location where tanks are located

If you own underground storage tanks (USTs) at multiple locations, you need to ensure that all of your locations are properly registered with

Need more information?
Give us a call or go online. See the back page for telephone numbers and website addresses.

us. This will help us to certify to the State Water Resources Control Board that all fees for every UST location have been paid and allocated correctly. Each site where tanks are located should be registered under your Underground Storage Tank Maintenance Fee account.

Payment of fee by operator

We often find that tank operators are improperly registered and paying the fee on behalf of the tank owners. For the convenience of the owner and operator, and to facilitate payment of the fee by the operator on behalf of the owner, the Board can mail fee returns and any notices for the owner's account to the operator, if both of the following conditions are met:

- The owner executes a notarized "Statement of Underground Storage Tank Owner," requesting that the fee returns and all notices for the owner's account be mailed to the operator.
- The operator executes a notarized "Statement of Underground Storage Tank Operator," acknowledging that he or she will pay the fee and any related interest and penalty on behalf of the owner and will not file a claim for refund of the fee based on the grounds that he or she was the operator rather than the owner of the tank, and, therefore, did not owe the fee.

For more information, please see Regulation 1213, *Payment of Fee by Operator*, or our publication 88, *Underground Storage Tank Fee*, at www.boe.ca.gov/pdf/pub88.pdf. You can also call us at 916-322-9669.

■ Motor Vehicle Fuel and Diesel Fuel

Both Programs

Sales tax prepayments for fuel in two-party exchanges in California

Sales tax prepayments for motor vehicle fuel and diesel fuel that are the subject of a two-party exchange must be paid by the receiving supplier in the two-party exchange transaction. As stated in Revenue and Taxation Code section 6480.1, *Prepayments*, subdivision (a), the obligation to collect and pay the prepaid sales tax is imposed on the supplier on whom the fuel taxes are imposed when the fuel is removed from the rack. In a two-party exchange this is the receiving supplier.

For more information on two-party exchanges, please review Regulations 1123, 1125, 1420,

and 1423, available on our website at www.boe.ca.gov/sptaxprog/sptaxregs.htm. You may call our Information Center at 800-400-7115 for more information regarding the prepayment of sales tax on two-party exchanges.

Diesel Fuel

Renew your IFTA credentials to avoid penalty charges

If you haven't yet applied for your 2008 IFTA credentials, be sure to do so. Your current credentials will expire on December 31, 2007 (unless your credentials are revoked, canceled, or suspended before then). As explained below, you are subject to a penalty if you enter California on or after January 1, 2008, without proper IFTA credentials (see grace period information) or a California Fuel Trip Permit.

Grace period for carriers who have applied and paid for their 2008 credentials

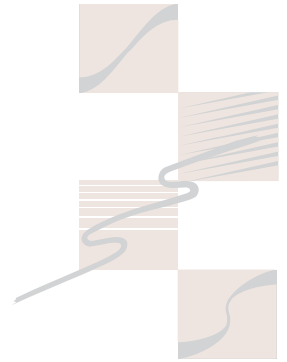
You have until February 29, 2008, to display your 2008 decals if you have filed all of your IFTA returns, paid all amounts due, and filed and paid your credential renewal on time. Many IFTA jurisdictions, including California, step up their IFTA credential enforcement each year beginning on March 1.

Penalty charge

If you're not covered by the grace period or otherwise do not have credentials, you will be assessed a penalty if you enter California without valid IFTA credentials or a California Fuel Trip Permit. The penalty can be calculated two different ways:

- If we determine that you owe a specific amount of tax, the penalty will be 25 percent of the tax amount or \$500, whichever is more.
- If we do not determine the amount of tax you owe, the penalty is \$100. For each subsequent violation, \$100 will be added to the amount of the penalty until the penalty reaches the maximum of \$500. For example, the minimum penalty is \$200 for a second violation and \$300 for a third violation. In addition to paying a penalty, you will also be required to purchase a California Fuel Trip Permit to travel in California. The current cost of a permit is \$30 for a single vehicle for a consecutive four-day period.

Any amounts assessed upon entering California, the California Fuel Trip Permit fee, and any other outstanding amounts due are required to be paid before the vehicle is allowed to proceed. Failure



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to pay may result in your qualified motor vehicle being impounded and posted for sale to pay the indebtedness.

Interstate user tax rate to decrease

The tax you normally report and pay with your quarterly fuel tax return for diesel fuel that you purchase outside California and use in the state has been decreased to 36.6 cents per gallon for the period January 1, 2008, through December 31, 2008. You may also claim a credit of 36.6 cents per gallon for the gallons of tax-paid diesel fuel purchased in California and used both inside and outside the state.

The 36.6 cents per gallon reflects:

- 18 cents per gallon of diesel fuel tax, and
- an additional excise tax of 18.6 cents per gallon. (This rate is equal to 7.25 percent of the average retail price of diesel fuel sold in California. This amount, known as the "component b" rate, is calculated annually for the following calendar year.

If you have any questions concerning this change, please call the Motor Carrier Section at 916-322-9669.

Exemption certificate requirements for exempt bus operators

As an exempt bus operator, you are not required to pay diesel fuel tax on fuel purchased for exempt bus operations. You must, however, claim the exemption at the time of purchase. You cannot take a credit or claim a refund on your Exempt Bus Operator Diesel Fuel Tax Return for tax paid on fuel used in exempt bus operations.

To make an exempt purchase, you must provide your supplier with form BOE-231-DB, *Diesel Fuel Tax Exemption Certificate for Exempt Bus Operator*. Your supplier will not charge diesel fuel tax on the portion of the fuel that will be used for exempt bus operations. If some of your bus operations do not qualify as exempt, you must indicate the exempt percentage on your exemption certificate. You may only purchase clear diesel fuel without payment of tax for your exempt operations. You must pay the tax to your supplier on diesel fuel purchased for non-exempt operations.

If you have overstated your exempt percentage on your exemption certificate, you must report the ex-tax gallons used in nonexempt operations on your tax return and pay the tax. If you purchase tax-paid fuel that is used in exempt operations, you must ask your supplier to issue you a credit

or refund. In turn, your supplier must file a claim for refund with the Board to recover the tax.

A limited alternative to issuing a partial exemption certificate would be to purchase dyed diesel fuel, rather than clear diesel fuel, for your bus operations. This alternative only applies to uses of dyed diesel fuel on the highway that are lawful under the Internal Revenue Code or applicable regulations. You must be registered as a qualified highway vehicle operator, exempt bus operator, or government entity to be able to purchase dyed diesel fuel for use on the highway. You must remit the appropriate tax on any dyed diesel fuel used on the highway: one cent per gallon for dyed diesel fuel used in exempt bus operations in this state, or the 18 cents per gallon tax due for all other diesel fuel used on highways in non-exempt bus operations in this state. Improper use of dyed diesel fuel on the highway will result in very large penalties. To learn more about this option, please call us at 916-322-9669.

■ Use Fuel Tax

Fuels subject to the use fuel tax

The following fuels are subject to use fuel tax:

Fuel	Tax Rate (per gallon or unit)
Liquefied petroleum gas (LPG)	\$.06
Liquid natural gas (LNG).....	\$.06
Compressed natural gas (CNG)	\$.07
Alcohol or alcohol blend containing not more than 15% gasoline or diesel fuel	\$.09
Ethanol	\$.09
Methanol	\$.09

Any other gas or liquid used to propel a motor vehicle, and not subject to the Motor Vehicle Fuel Tax or Diesel Fuel Tax Law \$.18

If you use LPG, LNG, or CNG to operate a vehicle and are required to pay use fuel tax on your use of the fuel, you can choose to pay tax according to an annual flat rate that is based on your vehicle's weight, rather than pay according to each gallon or unit of fuel used.

Fuel Taxes Division

916-322-9669

Board of Equalization, MIC:30

P.O. Box 942879

Sacramento, CA 94279-0030

Board website and Member contact information:

www.boe.ca.gov

Internet E-Mail

www.boe.ca.gov/info/email.html

Tax Evasion Hotline

888-334-3300

Legislation

www.leginfo.ca.gov

Taxpayers' Rights Advocate

888-324-2798

www.boe.ca.gov/tra/tra.htm